

RECEIVED & FILED

1 DOUGLAS R. JOHNSON, ESQ.
 Nevada Bar No. 007765
 2 JENNIFER E. SIMS, ESQ.
 Nevada Bar No. 007913
 3 LAW OFFICES OF DOUGLAS R. JOHNSON
 7785 West Sahara Avenue, Suite 203
 4 Las Vegas, Nevada 89117
 Telephone: (702) 362-6777
 5 Attorney for Plaintiffs Heidi Elaine Hersh
 and Leslie Stein-Hersh
 6

'09 MAY 19 AM 11:41
 U.S. BANKRUPTCY COURT
 MARY A. SCHOTT, CLERK

7 UNITED STATES BANKRUPTCY COURT
 8 DISTRICT OF NEVADA

10 In re:) CASE NO. 09-11060-LBR
 11) Chapter 7
 12)
 13) Date of Hearing: June 17, 2009
 14) Time of Hearing: 10:00 A.M.
 15)
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**MOTION FOR RELIEF FROM STAY TO PERMIT PUNITIVE DAMAGES CASE TO
 GO FORWARD IN DISTRICT COURT**

COMES NOW, Movant HEIDI ELAINE HERSH, individually, and LESLIE STEIN-HERSH, individually, by and through their attorney of record, DOUGLAS R. JOHNSON, ESQ., of the LAW OFFICES OF DOUGLAS R. JOHNSON, and hereby move this Honorable Court in accordance with Rules 4001 and 9014 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules"), by and through its undersigned attorneys, move this Court for an Order under Section 362(d) of the United States Bankruptcy Code, 11 U.S.C. §§101-1330 (the "Bankruptcy Code"), granting the Movant relief from all stays and injunctions in the above-captioned case, including the automatic stay of Bankruptcy Code §362(a), so the movants may exercise all of their rights and remedies as Plaintiffs in Eighth Judicial District Court against Debtors including the right to pursue proceedings in Eighth Judicial District Court for punitive damages.

Movants submit that they are entitled to stay relief and determination of non-dischargeability in this case under each independent basis for relief set forth in Bankruptcy Code §362(d). "Cause"

1 under Bankruptcy Code §362(d)(1) exists to grant stay relief **because the Debtors, in addition to**
 2 **other acts/or omissions did not list Heidi Elaine Hersh or Leslie Stein-Hersh as Creditors** and
 3 did not specify that Debtor REGINA MILLER inflicted and intentional and willful injury upon
 4 Movant/Plaintiffs.

5 This Motion presents a “core proceeding” in which the Court is entitled to enter a final order
 6 under 28 U.S.C. §§1334 and 157(b)(2)(G);Bankruptcy Code §362(d); and Bankruptcy Rules 4001
 7 and 9014.

8 FACTUAL AND PROCEDURAL BACKGROUND

9 This action arises from an assault and battery that occurred on or about November 17, 2006,
 10 at approximately 5:30 p.m., on I-15 to North Moapa Valley Boulevard (NV-169), in the City of
 11 Logandale, County of Clark, State of Nevada. Plaintiff HEIDI ELAINE HERSH was operating a
 12 Chevrolet Impala, with Plaintiff LESLIE STEIN-HERSH riding as a passenger. Defendant REGINA
 13 R. MILLER blocked Plaintiffs vehicle and **exited her vehicle with a tire iron in her hand**
 14 approaching Plaintiffs vehicle on the driver side. Defendant MILLER began yelling, cursing and
 15 threatening Plaintiffs, **hitting the window with the tire iron**. Defendant MILLER began pushing
 16 and shoving Plaintiff HEIDI, shoving Plaintiff HEIDI causing Plaintiff HEIDI to fall to the ground.
 17 As Plaintiff HEIDI was getting back up and turning around to get back into her vehicle, Defendant
 18 MILLER suddenly without any warning or provocation struck Plaintiff HEIDI's head with a
 19 **tire iron. Plaintiff HEIDI fell hard to the ground and lay in a pool of blood.** Defendant
 20 REGINA R. MILLER threatened Plaintiff LESLIE STEIN-HERSH, rushed back to her vehicle and
 21 drove away from the scene.
 22

23 As a direct and proximate result of the subject incident, Plaintiff HEIDI sustained traumatic
 24 injury to her head, neck, and weakness of left arm and leg. She also sustained loss of consciousness,
 25 and visual problems with blurry vision. Plaintiff HEIDI also sustained shock and injury to her
 26 nervous system, and emotional distress, which resulted in Plaintiff HEIDI obtaining medical
 27 treatment. Plaintiff HEIDI was transported via emergency medical services and treated at University
 28 Medical Center for the injuries sustained as a result of the subject incident. Plaintiff HEIDI was

1 diagnosed with head injury, and neck pain. She also sustained a scalp laceration along the occipital
 2 scalp due to Defendant REGINA R. MILLER's assault.

3 Subsequently, Plaintiff HEIDI has suffered seizures and was therefore diagnosed with post-
 4 concussion syndrome and head injury by Dr. Barnum of Valley Hospital Medical Center and
 5 obtained further treatment at University Medical Center for her seizure with chest pain. Plaintiff
 6 HEIDI has also sustained oral damage and sought the care of a dentist for treatment for the repair
 7 incurring additional expenses as a result of the assault by Defendant REGINA R. MILLER. Plaintiff
 8 HEIDI did and continues to experience physical injury, including but not limited to, head injury,
 9 headaches, dizziness, seizures, short-term memory loss, inability to concentrate, inability to speak
 10 for approximately one (1) month after the subject incident, and pain and impairment to her body as
 11 a result of the incident subject this litigation.

12 The following is a list of medical providers Plaintiff HEIDI has treated with as well as the
 13 dates of service and billing amounts incurred as a result of the accident subject this litigation:

<u>MEDICAL PROVIDER:</u>	<u>DATES OF SERVICE:</u>	<u>AMOUNT:</u>
University Medical Center	11/17/06, 09/04/07	\$12,321.56
Valley Hospital Medical Center	11/29/06	to be determined.
MedicWest Ambulance, Inc.	09/04/07	\$1,998.51
R.D. Prabhu Lata K. Shete, M.D., C/o	01/12/07, 02/23/07, 06/04/07,	\$1,764.13
Red Rock Medical Center	08/23/07, 10/19/07, 11/16/07	
Lee R. Turner, D.D.S., C/o Galleria	11/05/07-11/29/07	\$1,444.00
Dental		
White Cross Drugs	02/16/07, 02/23/07, 02/25/07	\$95.00
Insight Mountain Diagnostics	to be determined.	to be determined.
Flight for Life	11/17/06	to be determined.
Jaswinder Grover, M.D., Nevada Spine Clinic	to be determined.	to be determined.

1	Valley Chiropractic	to be determined.	to be determined.
2	Clark County Volunteer Fire	to be determined.	to be determined.
3	Department		
4	<u>TOTAL:</u>		TO BE DETERMINED.
5			
6			

7 Plaintiff HEIDI has undergone a variety of conservative treatments, none of which have been
 8 a complete success. Her treatment is on-going with a number of options to include medication,
 9 diagnostic testing, and referral to a neurological specialist and treatment with an orthopaedic
 10 specialist. Furthermore, because Plaintiff HEIDI has continued and unresolved headaches, dizziness,
 11 seizures, short-term memory loss, inability to concentrate, peripheral vision loss, nausea, pain and
 12 impairment to her body, and posttraumatic stress disorder, it has caused discomfort to her day to day
 13 lifestyle.

14 **MILLER admitted to the intentional conduct in untimely answer to a request for**
 15 **admissions. See Exhibit A.**

16 **LEGAL ARGUMENTS AND AUTHORITIES-CONSIDERATIONS WHEN LIFTING**
 17 **STAY TO PERMIT LITIGATION TO CONTINUE**

18 In *In Re Sonnax Industries, Inc.*, 907 F.2d 1280, 1285 (C.A. 2(Vt.) 1990) the court stated:

19 We turn now to the merits. Section 362 of the Bankruptcy Code provides that a bankruptcy
 20 petition ‘operates as a stay, applicable to all entities,’ of the commencement or continuation
 21 of judicial proceedings against the debtor . . .

22 Subsection (d) of Section 362, provides as follows, however:

23 On request of a party in interest and after notice and a hearing, the court shall grant relief
 24 from the stay . . .

25 (1)for cause, including the lack of adequate protection of an interest in property of such party
 26 in interest; or

27 (2) with respect to a stay of an act against property under subsection (a) of this section, if -

28 (A) the debtor does not have an equity in such property; and

(B) such property is not necessary to an effective reorganization.

1 11 U.S.C. § 362(d) (1988).

2 Because the instant case concerns a stay of a judicial proceeding, only Section 362(d)(1) is
 3 applicable. The burden of proof on a motion to lift or modify the automatic stay is a shifting one.
 4 Section 362(d)(1) requires an initial showing of cause by the movant, while Section 362(g) places
 5 the burden of proof on the debtor for all issues other than debtor's equity in property," 11 U.S.C. §
 6 362(g)(1). *See 2 Collier on Bankruptcy ¶ 362.10, at 362-76.* If movant fails to make an initial
 7 showing of cause, however, the court should deny relief without requiring any showing from the
 8 debtor that it is entitled to continued protection.

9 Neither the statute nor the legislative history define the term "for cause" and the legislative
 10 history gives only very general guidance. The Senate Report states:

11 The lack of adequate protection of an interest in property is one cause for relief, but is not
 12 the only cause. Other causes might include the lack of connection with or interference with
 13 the pending bankruptcy case. Generally, proceeding in which the debtor is a fiduciary, or
 14 involving post-petition activities of the debtor need not be stayed because they bear no
 relationship to the purpose of the automatic stay, which is protection of the debtor and his
 estate from his creditors.

15 S. Rep.No.989, 95th Cong., 2d Sess. 52, reprinted in 1978 U.S. Code Cong. & Admin. News
 5787, 5838.

16 Other legislative history indicates that the "facts of each request will determine whether relief
 17 is appropriate under the circumstances" H.R.Rep.No. 595, 95th Cong., 2d Sess. 343-44, reprinted in
 18 1978 U.S. Code Cong. & Admin.News 6300.

19 In summarizing the case law under Section 362, Collier also mentions only a few specific
 20 circumstances amounting to "cause."

21 Actions which are only remotely related to the case under title 11 or which involve the right
 22 of third parties often will be permitted to proceed in another forum. Generally, proceedings
 23 in which the debtor is a fiduciary or which involve post-petition activities of the debtor need
 24 not be stayed since they bear no real relationship to the purpose of the stay which is to protect
 25 the debtor and the estate from creditors. Where the claim is one covered by insurance or
 indemnity, continuation of the action should be permitted since hardship to the debtor is
 likely to be outweighed by hardship to the plaintiff. Finally, the liquidation of a claim may
 be more conveniently and speedily determined in another forum . . .

26 In extreme cases, a finding that the bankruptcy case was not commenced in good faith has
 27 been used as a basis for vacating or annulling the automatic stay.

28 2 Collier on Bankruptcy ¶ 362.07(3), at 362-65 to -67 (footnotes omitted).

In re Curtis, 40 B.R. 795 (Bankr.D.Utah 1984), catalogued a dozen factors to be weighed in deciding whether litigation should be permitted to continued in another forum. These are: (1) whether relief would result in a partial or complete resolution of the issues; (2) lack of any connection with or interference with the bankruptcy case; (3) whether the other proceeding involves the debtor as a fiduciary; (4) whether a specialized tribunal with the necessary expertise has been established to hear the cause of action; (5) whether the debtor's insurer has assumed full responsibility for defending it; (6) whether the action primarily involves third parties; (7) whether litigation in another forum would prejudice the interest of other creditors; (8) whether the judgment claim arising from the other action is subject to equitable subordination; (9) whether movant's success in the other proceeding would result in a judicial lien avoidable by the debtor; (10) the interests in judicial economy and the expeditious and economical resolution of litigation; (11) whether the parties are ready for trial in the other proceeding; and (12) the impact of the stay on the parties and the balance of harms . . .

See id. at 799-800.

As one might anticipate from the unstructured nature of this issue, existing case law indicates that the "decision of whether to lift the stay [is committed] to the discretion of the bankruptcy judge," *See Holtkamp v. Littlefield (In re Holtkamp)*, 669 F.2d 505, 507 (7th Cir 1982); *Rich v. Maryland Nat'l Bank*, 42 B.R. 350, 354 (D.Md. 1984), and that we may overturn a denial of a motion to lift the automatic stay only upon a showing of abuse of discretion. *Holtkamp*, 669 F.2d at 507.

The parties need to return to District Court for either a trial or motion for summary judgment, as well as, the punitive damages phase of the case. The matter would be reduced to judgment, but no steps would be taken to execute or collect upon the judgment, without further order of Court.

Lifting the stay would allow the Plaintiffs/Movants to go forward with the case, leaving only the issue of non-dischargeability of the judgment. Plaintiffs/Movants submit to this Honorable Court that their debt cannot be discharged because (1) Plaintiff/Movants were not listed as Creditors in Debtors' Voluntary Petition, (2) Leslie Stein-Hersh was not mentioned at all on the Petition, although she has a pending claim in District Court against Debtor Regina Miller, (3) the potential judgment would involve punitive damages issues dealing with a vicious and intentional attack pursuant to 11 U.S.C. 523(a)(6), and (4) the claim and ultimate judgment will not effect the other creditors, since the judgment will be entered post-petition and the debt is non-dischargeable. Consideration must be given to the fact that most of the case has already been heard in District Court.

As to factor #1, the case would be completely resolved, unless the Debtor appealed the potential judgment in District Court. The proceedings in state court would not interfere with the bankruptcy, since the claim should be non-dischargeable. As for Factor #4, the District Court is equipped to handle an intentional assault and battery case. Regarding Factor #7, the District Court litigation would not prejudice other creditors, because the claim is non-dischargeable.

The interests of judicial economy and the expeditious and economical resolution of this litigation are served since the District Court is ready to proceed and is already familiar with the matter. The matter is almost completely decided, since Defendant admitted to engaging in an intentional assault in her untimely answers to requests for admissions.

Plaintiff Hersh still is undergoing medical treatment for the permanent and serious injuries inflicted upon her in the intentional, willful and malicious assault and battery by Debtor Regina Miller. The impact of the stay on the parties and the balance of harms clearly tips in favor of proceedings continuing in state court. It will certainly be less costly to both parties to proceed in a court where both parties have been represented by counsel and because Defendant admitted to the intentional conduct, much of the unfinished business should be disposed of by way of summary judgment.

“After *In re Sonnax*, there is no doubt that a court’s determination of whether a movant has met its burden of proof on the issue of “cause” must include an analysis of the Curtis factors.” *In re Abrantes Const. Corp.*, 132 B.R. 234, 238 (N.D.N.Y. 1991).

However,

[a]s the court noted in *Sonnax*, not all of the twelve Curtis factors are relevant in every case. *Id.* at 1286; see *Mazzeo*, 167 F.3d at 143; *Busch*, 294 B.R. at 141. Nor is a court required to give each of the Curtis factors equal weight in making its determination. *Burger Boys, Inc. v. S. St. Seaport Ltd. Pa. (In re Burger Boys, Inc.)*, 183 B.R. 682, 688 (S.D.N.Y. 2001)

²⁴ *In re Plumberex Specialty Products, Inc.*, 311 B.R. 551, 560 (Bkrcty.C.D. Cal. 2004).

CONCLUSION

27 The balance tips in favor of lifting the stay by a clear margin. For all of the foregoing
28 reasons, Movants respectfully request that the Court enter an Order vacating and terminating all

1 applicable bankruptcy stays and injunctions to permit Movants to exercise all of their rights and
2 remedies in Eighth Judicial District Court stopping short of collection efforts and short of recording
3 the resulting judgment until the dischargeability of the claims can be determined.

4 As stated above, it is the position of Movants, that these Orders may be entered by this
5 Honorable Court, since neither Debtors failed to name Heidi Hersh and Leslie Stein-Hersh as
6 Creditors in their Voluntary Petition and did not adequately notify this Honorable Court that the
7 claims were relating to intentional and willful battery by Debtor Regina Miller upon Movants.
8

9 Respectfully submitted this May 18, 2009.

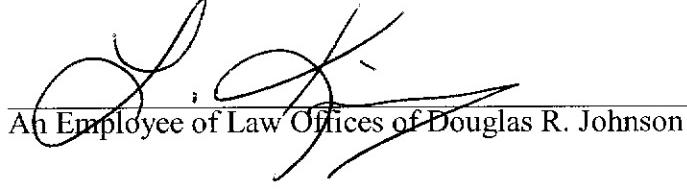
10 LAW OFFICES OF DOUGLAS R. JOHNSON
11 
12 DOUGLAS R. JOHNSON, ESQ.
13 Nevada Bar No. 007765
14 JENNIFER E. SIMS, ESQ.
15 Nevada Bar No. 007913
16 7785 West Sahara Avenue, Suite 203
17 Las Vegas, Nevada 89117
18 Attorney for Plaintiffs Heidi Elaine Hersh and
19 Leslie Stein-Hersh
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28

LAW OFFICES OF DOUGLAS R. JOHNSON
7785 West Sahara Avenue, Suite 203
Las Vegas, Nevada 89117
(702) 362-6777

1
2 Copies of the foregoing were mailed and sent by facsimile this
3
4 18th day of May 2009 to:

5 TIMOTHY S. CORY, ESQ
6 Chapter 7 Trustee
7 8831 W. Sahara Avenue
8 Las Vegas, Nevada 89117
9 (702) 382-7903

10 LUCIEN CRAVENS, JR.,ESQ.
11 931 S. Third Street
12 Las Vegas, Nevada 89101
13 (702) 360-0200

14 
15 Ah Employee of Law Offices of Douglas R. Johnson

LAW OFFICES OF DOUGLAS R. JOHNSON

7785 West Sahara Avenue, Suite 203
Las Vegas, Nevada 89117
(702) 362-6777

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Exhibit A

1 **REQT**
2 DOUGLAS R. JOHNSON, ESQ.
3 Nevada Bar No. 007765
4 LAW OFFICES OF DOUGLAS R. JOHNSON
5 7785 West Sahara Avenue, Suite 203
6 Las Vegas, Nevada 89117
7 Telephone: (702) 362-6777
8 Attorney for Plaintiffs Heidi Elaine Hersh
9 and Leslie Stein-Hersh

DISTRICT COURT

CLARK COUNTY, NEVADA

9 HEIDI ELAINE HERSH, individually; and)
10 LESLIE STEIN-HERSH, individually,)
11 Plaintiffs,) CASE NO. A550790
12 vs.) DEPT NO. XXIII
13 REGINA R. MILLER, DOES I through V,)
14 inclusive, and ROE CORPORATIONS I)
through V, inclusive,)
15 Defendants.)

REQUEST FOR ADMISSIONS TO DEFENDANT REGINA R. MILLER

TO: REGINA R. MILLER, Defendant; and

TO: ALAN N. FENTON, ESQ., Attorney for Defendant.

Under authority of Rule 36, Nevada Rules of Civil Procedure, Plaintiffs HEIDI HERSH and LESLIE STEIN-HERSH hereby requests that Defendant answer in writing and under oath, within thirty (30) days from the date of service, the following Request for Admissions. The unanswered Request for Admissions will be deemed admitted by operation of law. The Request for Admissions are as follows:

REQUEST NO. 1:

Admit you plead guilty of assaulting Heidi Hersh on November 17, 2006.

REQUEST NO. 2:

Admit you used force when you struck Heidi Hersh on November 17, 2006.

111

1 **REQUEST NO. 3:**

2 Admit you used violence when you struck Heidi Hersh on November 17, 2006.

3 **REQUEST NO. 4:**

4 Admit you plead guilty to striking Heidi Hersh in the head with a metal object on November
5 17, 2006.

6 **REQUEST NO. 5:**

7 Admit you plead guilty to conspiracy to commit battery upon Heidi Hersh on November 17,
8 2006.

9 **REQUEST NO. 6:**

10 Admit you threatened Leslie Hersh on November 17, 2006.

11 **REQUEST NO. 7:**

12 Admit you used a metal object to hit the car window of the vehicle Heidi Hersh was driving
13 on November 17, 2006.

14 **REQUEST NO. 8:**

15 Admit you shoved Heidi Hersh on November 17, 2006.

16 **REQUEST NO. 9:**

17 Admit you left Heidi Hersh lying on the ground bleeding on November 17, 2006 after you
18 struck her in the head with a metal object.

19 **REQUEST NO. 10:**

20 Admit you struck Heidi Hersh with a metal object on November 17, 2006.

21 **REQUEST NO. 11:**

22 Admit you threatened to kill Heidi Hersh and Leslie Stein-Hersh on November 17, 2006.

23 **REQUEST NO. 12:**

24 Admit you served time in Clark County Detention Center for striking Heidi Hersh with a
25 metal object.

26 **REQUEST NO. 13:**

27 Admit you were placed on probation for striking Heidi Hersh with a metal object.
28

1 **REQUEST NO. 14:**

2 Admit you were to complete impulse control counseling.

3 **REQUEST NO. 15:**

4 Admit you were to have no contact with Heidi Hersh at your March 5, 2007 sentencing
5 hearing.

6 **REQUEST NO. 16:**

7 Admit you caused Heidi Hersh to seek medical care and costs by striking her in the head with
8 a metal object.

9 DATED this 16 day of August, 2008.

10 LAW OFFICES OF DOUGLAS R. JOHNSON

11

12 DOUGLAS R. JOHNSON, ESQ.
13 Nevada Bar No. 007765
14 7785 West Sahara Avenue, Suite 203
15 Las Vegas, Nevada 89117
16 **Attorney for Plaintiffs Heidi Elaine Hersh and**
 Leslie Stein-Hersh

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CERTIFICATE OF MAILING

I hereby certify that on the 18th day of August, 2008, I mailed a true and correct copy of the foregoing **REQUEST FOR ADMISSIONS TO DEFENDANT REGINA R. MILLER** via United States Mail, postage prepaid, to the following:

Alan N. Fenton
Attorney at Law
2748 Crown Ridge Drive
Las Vegas, Nevada 89134-8318
Attorney for Defendant Regina R. Miller

**An Employee of the LAW OFFICES
OF DOUGLAS R. JOHNSON**

FICES OF DOUGLAS R. JOHNSON
85 West Sahara Avenue, Suite 203
Las Vegas, Nevada 89117
(702) 362-6777

**AFFIRMATION
Pursuant to NRS 239B.030**

The undersigned does hereby affirm that the preceding **REQUEST FOR ADMISSIONS**
TO DEFENDANT REGINA R. MILLER filed in District Court Case No.: **A550790**, does not
contain the social security number of any person.

Dated this 16 day of August, 2008.

LAW OFFICES OF DOUGLAS R. JOHNSON

~~DOUGLAS R. JOHNSON, ESQ.
Nevada Bar No.: 007765
7785 West Sahara Avenue, Suite 203
Las Vegas, Nevada 89117~~
**Attorney for Plaintiffs Heidi Elaine Hersh and
Leslie Stein-Hersh**

LAW OFFICES OF DOUGLAS R. JOHNSON
7785 West Sahara Avenue, Suite 203
Las Vegas, Nevada 89117
(702) 362-6777

1 RSPN

2 **LAW OFFICES OF ALAN N. FENTON**

3 Alan N. Fenton, Attorney at Law

4 NV State Bar No. 4985 CA State Bar No. 37901

5 2748 Crown Ridge Drive

6 Las Vegas, Nevada 89134-8318

7 (702) 254-5200 FAX: (702) 227-7366

8 E-Mail Address: AFentonAttorney@aol.com

9 Attorney for Defendant REGINA R. MILLER

10

11

DISTRICT COURT

12

CLARK COUNTY, NEVADA

13

14 HEIDI ELAINE HERSH, individually,)	CASE NO.: A 550790
15 and LESLIE STEIN-HERSH,)	DEPT NO.: 23
16 individually,)	
17 Plaintiffs,)	DEFENDANT'S RESPONSES
18 vs.)	TO PLAINTIFFS'
19)	REQUESTS FOR
20)	ADMISSIONS
21 REGINA R. MILLER, DOES I through V,)	
22 inclusive and ROE CORPORATIONS I)	
23 through V, inclusive,)	
24 Defendants.)	
25)	

26

27 Responding Party: Defendant REGINA R. MILLER

28 Propounding Party: Plaintiff

29 Defendant responds to the requests for admissions propounded
30 upon her by Plaintiffs as follows:

31

PRELIMINARY STATEMENT

32

33 These responses are made solely for the purpose of, and in
34 relation to this action. Each response is given subject to all
35 appropriate objections, including by not limited to objections
36 concerning competency, relevancy, materiality, propriety and

1 admissibility, which would require the exclusion of any statement
2 contained herein that was made by a witness present and testifying
3 in court. All such objections and grounds therefore are reserved
4 and may be interposed at the time of trial.

5 The party upon whose behalf the responses are given has not
6 yet completed her investigation of the facts relating to this
7 action, has not yet completed her discovery in this action and has
8 not yet completed her preparation for trial. Consequently, the
9 following answers are given without prejudice to the answering
10 party's rights to produce at the time of trial subsequently
11 discovered evidence relating to the proof of facts that may be
12 material.

13 Except for facts explicitly admitted herein, no admission of
14 any nature whatsoever is to be implied or inferred. The fact that
15 any request for admission herein has been answered should not be
16 taken as an admission or a concession of the existence of any
17 facts set forth or assumed by such request or that such answer
18 constitutes evidence of any fact set forth or assumed. All
19 answers must be construed as given on the basis of present
20 recollection.

21 **ANSWERS TO REQUESTS FOR ADMISSIONS**

22 1. Admit you pleaded guilty of assaulting Heidi Hersh on
23 November 17, 2006.

24 Response: Admit.

25 2. Admit you used force when you struck Heidi Hersh on
26 November 17, 2006.

27 Response: Admit.

28 3. Admit you used violence when you struck Heidi Hersh on

1 November 17, 2006.

2 Response: Admit.

3 4. Admit you plead guilty to striking Heidi Hersh in the head
4 with a metal object on November 17, 2006.

5 Response: Deny. The actual plea was guilty to conspiracy to
6 commit battery. See the judgment of conviction.

7 5. Admit you plead guilty to conspiracy to commit battery
8 upon Heidi Hersh on November 17, 2006.

9 Response: Admit.

10 6. Admit you threatened Leslie Hersh on November 17, 2006.

11 Response: Deny.

12 7. Admit you used metal object to hit the car window of the
13 vehicle Heidi Hersh was driving on November 17, 2006.

14 Response: Deny.

15 8. Admit you shoved Heidi Hersh on November 17, 2006.

16 Response: Admit.

17 9. Admit you left Heidi Hersh lying on the ground bleeding on
18 November 17, 2006 after you struck her in the head with a metal
19 object.

20 Response: Admit.

21 10. Admit you struck Heidi Hersh with a metal object on
22 November 17, 2006.

23 Response: Admit.

24 11. Admit you threatened to kill Heidi Hersh and Leslie
25 Stein-Hersh on November 17, 2006.

26 Response: Deny.

27 12. Admit you served time in Clark County Detention Center
28 for striking Heidi Hersh with a metal object.

1 Response: Admit.

2 13. Admit you were placed on probation for striking Heidi
3 Hersh with a metal object.

4 Response: Admit.

5 14. Admit you were to complete impulse counseling.

6 Response: Admit.

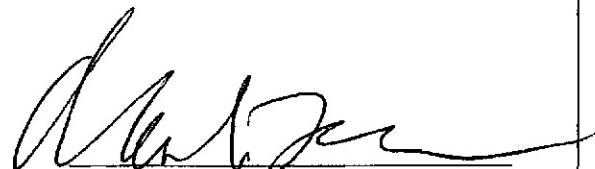
7 15. Admit you were to have no contact with Heidi Hersh at you
8 March 5, 2007 sentencing hearing.

9 Response: Admit.

10 16. Admit you caused Heidi Hersh to seek medical care and
11 costs by striking her in the head with a metal object.

12 Response: Responding party has no information or belief in
13 response to this request, and based on that lack of information
14 and belief, denies this request.

15
16 Dated: October 7, 2008



ALAN N. FENTON
Attorney for Defendant

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VERIFICATION

I, REGINA R. MILLER, am the defendant in the above-entitled action. I have read the foregoing responses to the requests for admissions (set one) and know the contents thereof. The same are true of my own knowledge, except as to those matters that are therein stated on information and belief, and concerning those matters, I believe it to be true.

I declare under penalty of perjury of the laws of the State of Nevada that the foregoing is true and correct.

Dated: October 3, 2008

Regina R. Miller
REGINA R. MILLER

1 CERT

2 **LAW OFFICES OF ALAN N. FENTON**

3 *Alan N. Fenton, Attorney at Law*

4 NV State Bar No. 4985 CA State Bar No. 37901
2748 Crown Ridge Drive
Las Vegas, Nevada 89134-8318
(702) 254-5200 FAX: (702) 227-7366

5 Attorney for Defendant REGINA R. MILLER

6

7 DISTRICT COURT

8 CLARK COUNTY, NEVADA

9

10

11 HEIDI ELAINE HERSH, individually,) CASE NO.: A 550790
12 and LESLIE STEIN-HERSH,) DEPT NO.: 23
13 individually,)
14 Plaintiffs,) CERTIFICATE OF MAILING
15 vs.) NRCP Rule 5
16 REGINA R. MILLER, DOES I through V,)
17 inclusive and ROE CORPORATIONS I)
18 through V, inclusive,)
Defendants.)

19 I, VICTORIA S. FENTON, declare that: I am over the age of
20 eighteen years and not a party to the cause. I am employed in the
21 County of Clark, Nevada, where the mailing occurs. My business
22 address is 2748 Crown Ridge Drive, Las Vegas, Nevada 89134-8318.
23

24 I further declare that I am readily familiar with the business'
25 practice for collection and processing of correspondence for
26 mailing with the United States Postal Service; and that the
27 correspondence shall be deposited with the United States Postal
28 Service this same day in the ordinary course of business. I

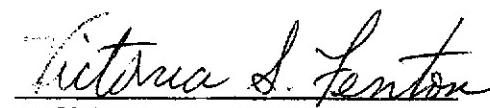
1 caused to be served the following documents: DEFENDANT'S RESPONSES
2 TO PLAINTIFFS' REQUEST FOR ADMISSIONS, by placing a copy of each
3 document in a separate envelope addressed to each addressee,
4 respectively as follows:

5 Douglas R. Johnson
6 Attorney at Law
7 7785 West Sahara Avenue, Suite 203
8 Las Vegas, NV 89117

9
10 I then sealed each envelope and, with the postage thereon fully
11 prepaid, I placed each for deposit into the United States Postal
12 Service, this same day, at my business address shown above,
13 following ordinary business practices.

14
15 I declare under penalty of perjury under the laws of the State
16 of Nevada that the foregoing is true and correct.
17
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28

Executed on: October 7, 2008


VICTORIA S. FENTON

ALAN N. FENTON

Atoms at Low

2745 Glendale Drive
Las Vegas, Nevada 89134-8318

Douglas R. Johnson
Attorney at Law
7785 West Sahara Avenue, Suite 203
Las Vegas, NV 89117